



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 2686-99
16 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was retired by reason of physical disability.

2. The Board, consisting of Messrs. Kastner, Lightle and Whitener, reviewed Petitioner's allegations of error and injustice on 4 May 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner was evaluated by a medical board on 9 April 1998. The medical board report indicates he was being treated with a combination of psychotherapy and medication, which consisted of anti-depressant and anti-anxiety drugs. Despite that treatment, he continued to experience symptoms which adversely affected his ability to perform his job adequately. He was given a diagnosis of anxiety disorder, not otherwise specified, manifested by clinically significant symptoms of anxiety and depression, frequent anxiety attacks, headaches, feelings of sadness, disrupted sleep and fatigue. He was discharged by reason of physical disability on 27 October 1998, with a 10% rating for an anxiety disorder, not otherwise specified. He completed in excess of 14 years active duty service.

d. SECNAVINST 1850.4D, enclosure (9), contains special instructions and explanatory notes for the VA Schedule for Rating Disabilities. It provides, in part, that a 10% rating is appropriate for a mental disorder where there is occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress; where symptoms are controlled by continuous medication; where there is adequate job adjustment potential; and where there is possible need for psychotherapy and medication. A 30% rating is appropriate where there is occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks due to such symptoms as depressed mood, anxiety, suspiciousness, panic attacks weekly or less often, chronic sleep impairment, and mild memory loss; and where medication is usually required, and psychotherapy is periodically or frequently required.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's more closely meets the criteria for a 30% rating than it does the 10% rating actually assigned. In this regard, it noted that he had an apparently continuous need for medication and psychotherapy, his symptoms were not mild or transient, and there was little potential for adequate job adjustment. Accordingly, it finds the existence of an injustice warranting the following corrective action.

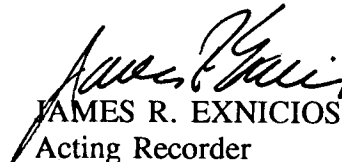
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was not discharged by reason of physical disability on 27 October 1998; that his record be further corrected to show he was permanently retired by reason of physical disability effective 28 October 1998, with a rating of 30% under VA code 9413, for anxiety disorder, not otherwise specified, pursuant to 10 U.S. Code 1201.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

A handwritten signature in black ink, appearing to read "Robert D. Feahman". The signature is fluid and cursive, with a prominent initial "R".

For W. DEAN PFEIFFER
Executive Director